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Dated: August 14, 2002

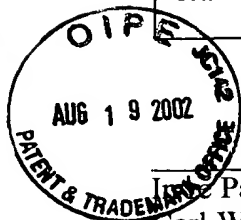
Signature

(John B. Lungmus)

6p1617
RECEIVED

AUG 21 2002

TECH CENTER 1600/2800
(PATENT)



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent Application of:
Carl W. Hastings, et al.

Application No.: 09/175748

Group Art Unit: 1617.

Filed: October 20, 1998

Examiner: R. Travers

For: **PERFORMANCE-ENHANCING DIETARY
SUPPLEMENT**

RESPONSE TO ADVISORY ACTION OF JULY 26, 2002

Box Non-Fee Amendment
Commissioner for Patents
Washington, DC 20231

Dear Sir:

On June 24, 2002, applicants filed a response to an Official Action dated January 7, 2002 (Paper No. 15). A copy of page 1 of that action is enclosed. As shown on that copy, Box 2(b) was checked to indicate that the action was a non-final one. It will also be noted that Box 2(a) was not checked.

Applicants have therefore been expecting a further substantive action from the PTO on this application. Instead, they have now received an Advisory Action dated July 26, 2002 (Paper No. 18) stating that applicants' request for reconsideration of the "final rejection" does not place the application in condition for allowance.

According to applicants' file, there has been no final rejection and, therefore, the advisory action is not a proper response to applicants' amendment of June 24, 2002.

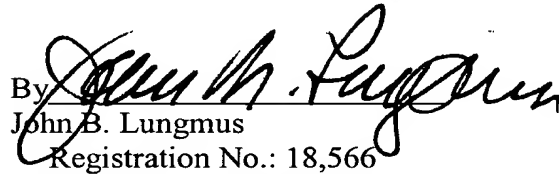
Applicants therefore respectfully request that corrective action be taken, including the issuance of a substantive Official Action and reinstatement of the pendency of this application.

Application No.: 09/175748

RECEIVED
Docket No. 30105732001
AUG 21 2002
TECH CENTER 1600/2900

Dated: August 14, 2002

Respectfully submitted,

By 
John B. Lungmus

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Office Action Summary

Application No.

09/175,748

Applicant(s)

Hastings et al

Examiner

Russell Travers

Unit

1617

AUG 21 2002



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Oct 9, 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-27 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- *See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 18) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: _____